

Transcript of the Testimony of
RONALD BREGMAN

Date: March 6, 2006

Case No.: CV04-00428

Case: POWELL v. CITY & COUNTY OF HONOLULU

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EXHIBIT "22"

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1 One of the things I forgot to mention was tides
 2 have a big influence on this, this current here.
 3 Q. That, meaning the slot or the cable channel?
 4 A. Yes.
 5 Q. How do the tides --
 6 A. At low tide, the current really runs hard through
 7 there.
 8 Q. In or out?
 9 A. Out. Away from the beach.
 10 Q. Right.
 11 A. High tide, it's not nearly as strong in most
 12 cases, most days. The Witches Brew can be dangerous any
 13 time there's trade winds. And when there's northeast swell
 14 or waves, it hits this side of the bay (indicating).
 15 Q. Would you mind marking Witches Brew? And you can
 16 maybe it a thicker line or whatever. Again, a circle and
 17 "WB" in the area that indicates Witches Brew.
 18 A. (Indicating.)
 19 Q. And you said high winds, high trades?
 20 A. I'm not sure if I said high.
 21 MR. MAYESHIRO: Let me object. Misstates
 22 testimony. I think he said trade winds.
 23 BY MS. WATERS:
 24 Q. Trade winds make Witches Brew --
 25 A. Trade winds, 20 knots or higher. I don't know

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1 whether that's high or not.
 2 Q. Do you know in miles per hour?
 3 A. Oh, knots translate to approximately miles per
 4 hour, unless you're an oceanographer. But it's close.
 5 Q. Any other areas that are particularly hazardous?
 6 A. Toilet Bowl.
 7 Q. And that's --
 8 A. Actually, the whole ledge. Toilet Bowl Ledge
 9 and -- I'm sorry -- Toilet Bowl Ledge can be very
 10 hazardous. Other areas are not as affected by conditions.
 11 Q. Such as?
 12 A. Key Hole, Triangle. Some people call it Devil's
 13 Triangle or Bermuda Triangle.
 14 There's an area here (indicating), I believe it's
 15 called the Dropoff.
 16 Q. Now, I did want to ask you about where the
 17 Triangle was. If you wouldn't mind, while we're talking
 18 about it, drawing the Triangle.
 19 A. Drawing the Triangle?
 20 Q. Sure. And that's the Triangle. That indicates
 21 the area that's called the Triangle?
 22 A. Yes.
 23 Q. Then Key Hole, can you circle that area or
 24 outline it, "KH" for Key Hole.
 25 A. (Indicating.)

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1 Q. Then the other area you're talking about is where?
 2 A. It's here (indicating).
 3 Q. What is that called?
 4 A. I don't really know the name. Oh, wait. Here
 5 you go. This is Sandman's Patch.
 6 Q. Can you do a line and write "Sandman's" or
 7 something to indicate that is Sandman's Patch.
 8 A. This area, the only thing I heard it referred to
 9 as Deep Holes (indicating).
 10 Q. Sure. Deep Hole. That's fine. Just so we know
 11 what we're talking about.
 12 A. (Indicating.)
 13 Q. This has all been marked on Exhibit 1.
 14 Now, the areas you've just marked Deep Hole,
 15 Sandman, the Triangle, indicated by a triangle, and the Key
 16 Hole, indicated by "KH."
 17 Is it correct to say that all of these areas are
 18 not as affected by the conditions as the other places we
 19 just discussed?
 20 A. Yes.
 21 Q. Do you know why that is?
 22 A. Well, could I backtrack?
 23 Q. Sure.
 24 A. The only conditions that those are affected a lot
 25 by is tide. So if you consider that tide is a condition,

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1 then they would be.
 2 But they are inside the reef. So you have a
 3 protecting reef. Hanauma Bay is generally divided into
 4 three areas, I was taught. So they are in Area 1, which is
 5 the safest zone.
 6 Q. That's inside the reef?
 7 A. Inside the reef. They would all be inside Zone
 8 1. And I don't know if you want me to continue.
 9 Q. Please.
 10 A. Back Door, and the slot is what leads from Zone 1
 11 to Zone 2, which is more for advanced swimmers and
 12 snorkelers. Then Zone 3 is Outer Bay, 60 to 100 feet deep,
 13 more for scuba divers.
 14 Q. Would Witches Brew area be in Zone 3?
 15 A. That would be my -- yes, it would be.
 16 Q. What was your experience as far as Witches Brew
 17 in terms of accidents? Were there more accidents in
 18 Witches Brew than other areas?
 19 A. No. There were less.
 20 Q. Where are the most frequent accidents?
 21 A. The most frequent in terms of accidents --
 22 MR. MAYESHIRO: Let me object. Vague and
 23 ambiguous as to "accidents." But go ahead.
 24 A. I don't want to rephrase for you. But as far as
 25 the most rescues, 80 to 90 percent of our rescues occur

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1 here (indicating).
 2 Q. That would be?
 3 A. In the Slot.
 4 Q. In the Slot or outside of the Slot?
 5 A. Within the current that runs through that channel.
 6 Q. And does it have to do with people who get sucked
 7 in undertow?
 8 A. Yes. Outside. Outside. People that are not
 9 able to swim through the current, or are in the current.
 10 Q. Of the Slot?
 11 A. Yes.
 12 Q. How about in the Back Door area?
 13 A. Back Door area, also. But I believe it's less
 14 accessible.
 15 Q. You mean by swimmers?
 16 A. By swimmers and snorkelers, yes. I believe -- I
 17 believe that accessibility is the reason why there aren't
 18 more.
 19 Q. In your experience working at Hanauma Bay, how
 20 many accidents do you recall, other than the two drownings
 21 that we're here for today, did you witness occurring at or
 22 near Witches Brew?
 23 A. Five.
 24 Q. And that's in your eight years of experience
 25 there?

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1 A. Yes.
 2 Q. And does that include these two? Or no?
 3 A. I would have to say in addition to those two.
 4 Q. Can you describe them, to the best of your
 5 ability, when, approximately, they happened and what type
 6 of rescue?
 7 MR. MAYESHIRO: Objection. Lack of foundation.
 8 Calls for speculation. You can answer.
 9 A. To the honest, I really can't recall the
 10 individual cases.
 11 Q. Let me ask you, then, this way: Did any of them
 12 result in death?
 13 A. I can remember at least one other one that
 14 resulted in death.
 15 Q. Maybe more?
 16 A. It could have been -- well, I can't recall any
 17 others.
 18 Q. How about the circumstances with any of the other
 19 rescues at Witches Brew?
 20 A. I remember one other case where a person was on a
 21 boogie board flotation device, and somebody had helped him
 22 around this point (indicating) to this side.
 23 Q. And you're referring to the peninsula point of
 24 Witches Brew?
 25 A. We call it Witches Brew Point.

1 Q. And you're referring to the inside of the bay?
 2 A. Inside. The person was exhausted and needed
 3 medical assistance. I think we called it a near drowning.
 4 Q. Do you know who decides how many -- strike that.
 5 How many lifeguards, while the bay is open, how
 6 many lifeguards are on duty?
 7 A. Today?
 8 Q. Back in 2002.
 9 A. Four.
 10 Q. And where are they located?
 11 A. Two at 3 Alpha. Two at 3 Bravo.
 12 Q. These are towers that house two lifeguards each?
 13 A. Yes.
 14 Q. Do you know who decides how many people to staff
 15 each park, or Hanauma Bay, in particular?
 16 A. No, I don't.
 17 Q. For as long as you were working there, had it
 18 always been four lifeguards on duty?
 19 A. Yes.
 20 THE DEPONENT: I need to take a break in about
 21 five minutes.
 22 MS. WATERS: We can take a break now. It's been
 23 about an hour.
 24 (Whereupon, a recess was taken.)
 25 BY MS. WATERS:

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1 Q. I am going to have you look at this document
 2 before I mark it and see if you recognize it, if you filled
 3 it out?
 4 A. It looks familiar, yes.
 5 (Whereupon, a Major Incident Report was marked as
 6 Exhibit 2 for Identification.)
 7 Q. Can you tell me what this is?
 8 A. Well, it's a Major Incident Checkoff cover sheet.
 9 Q. And we'll mark this as Exhibit 2.
 10 Is this prepared in the normal course and scope
 11 of Water Safety Officer duty?
 12 A. Any time there is a drowning or a spinal injury
 13 that could possibly result in paralysis.
 14 Q. Is that why it's designated as major?
 15 A. Yes.
 16 Q. Did you fill this out?
 17 A. Part of it.
 18 Q. What part did you fill out?
 19 A. Well, I definitely filled out the third
 20 paragraph, "Signage," because that's my signature. I also
 21 filled out the sixth section about media statements,
 22 because that's my handwriting.
 23 Q. Okay.
 24 A. And the others, I don't recall.
 25 Q. So the notes on the top --

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